

## REMARKS

Claims 1-30, 32-37, 39, 41-48, 51-54 and 61-63 were pending.

Claims 1, 13, 19, 20, 32, 39, 41 and 61 have been amended. New claims 65-48 have been added. No additional claim has been cancelled or added.

Claims 1-30, 32-37, 39, 41-48, 51-54, 61-63 and 65-68 remain pending.

### **Claim Rejections Under 35 U.S.C. §102**

In the subject Office Action, claims 1-2, 5-14, 16-21, 24-30, 33, 36-39, 41-42, 45-48, 51-54, 57-58 and 61-62 were rejected under 35 U.S.C. §102(e) as being anticipated by US patent no. 6,151,643 issued to Cheng et al. (herein after "Cheng"). In response, Applicants have further amended claims 1, 13, 19, 20, 32, 39, 41 and 61. Claim 1 now recites a computing device implemented method of selecting software components for installation on a client computer. The method comprises:

receiving from the client computing device, a request for an upgrade of a first software component capable of being processed by the client computing device;

receiving configuration information indicating a software configuration of the client computing device including information indicating at least one additional software component that is necessary for post-upgrade execution of the first software component, and that the at least one additional software component has been being determined to be missing from the client computing device;

identifying second software components for installation on the client computing device based at least in part upon the request and the configuration information, the second software components comprising:

the upgrade of the first software component, and

the at least one necessary additional software component determined to be missing from the client computing device and necessary for post-upgrade execution of the first software component; and

transmitting the second software components to the client computing device.

Thus, claim 1 claims a method that includes a client computer making a request for an upgraded software component. Configuration information is received. Then, based at least in part upon the request and the configuration information, software components are identified for installation on the client computer, and are transmitted to the client computer.

These software components include but are not limited to the upgrade of the first software component and the missing necessary components. In other words, the identified and transmitted software components include at least

- (a) upgrades for the first components, and
- (b) missing components necessary for post-upgrade execution of the first components.

Applicants respectfully submit that Cheng does not teach or suggest applicants' claimed operation of identifying components for installation on the client.

In rejecting claim 1, the Examiner asserted that the "identified" operation is anticipated by Cheng's teachings on col. 3, lines 1-24. This passage in Cheng merely states that

"... The software update information in the database specifies the software update program or files and their network location ... The database further stores information that describes an installation process for installing the software update on a user's computer ... In addition, the software update information includes a format description associated with specific installation programs or actions needed to install the software update."

It is well settled that 102 rejections require clear and explicit anticipation in the cited reference.

Applicants' claim 1 recites an "identifying" operation, and the "identifying" operation is performed based on "a request for upgrade of a first software component",

and “configuration information of the client computing device”. Cheng’s database is a thing, not an operation. Therefore, a thing (the database) cannot be read as anticipating a recited operation.

In the subject office action, the Examiner reasoned that the “installation program/information” stored in the database can be read as having anticipated the recited “second components”. Applicants’ amended claims clarify that the additional components included with the second components are the components “necessary for the post-upgraded execution of the first components, but missing on the client computer pre-upgrade.” “Installation programs” are not used in post-upgrade execution of the upgraded components. Thus, Cheng’s installation programs do not anticipate the recited “necessary components”.

A thorough reading of Cheng further supports Applicants’ position.

In col. 7, line 46 – col. 8, line 5, Cheng teaches that “The client application 104 analyzes the client computer 101 to determine a list of installed software products ... For each of the installed software products, the client applications 104 determines 205 if there is an applicable or relevant update for the software product. This determination is made in consultation with ... a database including a list of available software updates for numerous software products of diverse software vendors. The client application 104 displays 206 the list of application software updates to the user, for review and selection ... Fig 4 illustrates a sample user interface display 400 of applicable software updates. This display 400 includes the name 401 of each software product identified on the client computer 101, and remarks 403 displayed next to the name indicating ... the list of applicable updates (which may be for the software product itself or for related products).”

Figure 4 illustrated two examples of “related” products

(a) Windows 95 driver update 1.01 “applicable” to Diamond Multimedia Stealth 64 Video 212, and

(b) Update for Internet and Exchange 7.0 for MS Office7.0

(a) is an example of an update to an existing installed dependent product, and (b) is an update to a member product of a family product. Nowhere in Cheng can Applicants find any teaching on the recitation of “identify a component necessary for post-upgrade execution of the component(s) of the requested upgrade, but missing on the client computing device pre-upgrade.”

Accordingly, for at least the foregoing reason, claim 1 is patentable over Cheng.

Independent claims 13, 20, 32, 39, 41 and 61 have been amended to include in substance the limitation discussed earlier with respect to claim 1. Thus, for at least the same reasons, claims 13, 20, 32, 39, 41 and 61 are also patentable over Cheng.

Claim 19 includes the recitation that the configuration file is provided to the client computing device. Cheng, as discussed earlier, teaches having a client application 104 gather “configuration” information on the client computer. Therefore, Cheng does not anticipate the required “configuration file that is provided to the client computer”. Thus, for at least this reason, claim 19 is patentable over Cheng.

Claims 2, 5-12, 14, 16-18, 20-21, 24-30, 33, 36-37, 42, 45-48, 51-54, and 61-62 depend on either claim 1, 13, 19, 20, 32, 39, 41 and 61, incorporating their recitations respectively. Thus, for at least the same reasons, claims 2, 5-12, 14, 16-18, 20-21, 24-30, 33, 36-38, 42, 45-48, 51-54, and 61-62 are patentable over Cheng.

### **Claim Rejections Under 35 U.S.C. §103**

Claims 3, 4, 15, 22-23, 34-35, 43-44, and 63, were rejected as being obvious in view of Cheng and Kenner (USP 6,314,565)

The Examiner's reading of Kenner, even if correct, does not remedy the above discussed deficiency of Chang, i.e. Chang's failure to teach or suggest the recited "identify" operation involving "software components (that) include but are not limited to the upgrade of the first software component and the (missing) necessary components." Therefore, independent claims 1, 13, 20, 32, 41 and 61 remain patentable over Cheng even when combined with the Kenner.

Claims 3, 4, 15, 22-23, 34-35, 43-44 and 63 depend on either independent claim 1, 13, 20, 32, 41 and 61, incorporating their recitations respective. Thus, for at least the same reasons claims 3, 4, 15, 22-23, 34-35, 43-44 and 63 are patentable over Cheng in combination with Kenner.

#### New Claims

New claims 65-68 depend on either independent claim 1, 13, 32, and 39, incorporating their recitations respective. Thus, for at least the same reasons claims 65 - 68 are patentable over Cheng in combination with Kenner.

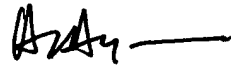
#### **Conclusion**

In light of the above amendments and remarks, reconsideration and withdrawal of the outstanding rejections and early issuance of the Notice of Allowance are specifically requested.

Please charge any shortages and credit any overages for this submission to  
deposit account 500393.

Respectfully submitted,  
SCHWABE, WILLIAMSON & WYATT, P.C.

Dated: February 9, 2005



---

Al AuYeung  
Registration No. 35,432

Pacwest Center, Suites 1600-1900  
1211 SW Fifth Avenue  
Portland, Oregon 97204  
Telephone: 503-222-9981